(1) Supreme Court, U.S.
FILED

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No. 00-

IN THE
Supreme Court of the United States

EVERETT RENGER, JR.,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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35 pp

QUESTIONS PRESENTED

May taxpayer citizens be imprisoned for failure to pay a tax debt in the absence of acts of fraud or concealment consistent with tax evasion?

Is imprisonment for tax debt "cruel and unusual punishment?" (Eighth Amendment to the United States Constitution)

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Petitioner, Everett Renger, Jr., respectfully prays that a Writ of Certiorari issue to review the Decision of the United States Court of Appeals for the Fifth Circuit which affirmed the Judgment of Conviction and Sentence imposed on Petitioner by the United States District Court for the Southern District of Texas, Houston Division, Honorable Kenneth M. Hoyt, for "willful failure to pay income taxes" for tax years 1991, 1992, and 1993, in the complete absence of any proof that Petitioner Renger committed acts of fraud or concealment consistent with tax evasion.

OPINIONS BELOW

The Opinion of the United States Court of Appeals for the Fifth Circuit which was not reported is set forth in Appendix A.

The Judgment of Conviction and Sentence entered by the United States District Court for the Southern District of Texas, Honorable Kenneth M. Hoyt, which was not reported, is set forth in Appendix B.

STATEMENT OF JURISDICTION

The Decision sought to be reviewed here was entered by the United States Court of Appeals for the Fifth Circuit on July 18, 2000, and is set forth in Appendix A.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The following constitutional provision is involved in this case: Eighth Amendment to the United States Constitution. The statutory provision involved is 42 U.S.C. § 1994. Both of these provisions are set forth in Appendix D.

STATEMENT OF THE CASE

Petitioner is an orthodontist who has practiced for many years in Houston, Texas. Petitioner filed timely federal income tax returns for 1991, 1992, and 1993, which accurately disclosed his taxable income. According to his returns, Petitioner owed $83,097.00 in taxes on $306,096.00 of earnings for 1991; $126,607.00 in taxes on $397,412.00 in earnings for 1992; and $118,276.00 in taxes on $330,026.00 in earnings for 1993. Renger paid only $9,800.00 of these liabilities. He attracted the attentions of Internal Revenue Service Collection Officer Edward Patrick Murphy as a result.

When he was unsuccessful in collecting the full amount which Petitioner owed for the years in question, Murphy referred Renger's case to the Internal Revenue Service's Criminal Investigation Division.

The C.I.D. assigned Special Agent Roberta Laurel to investigate Petitioner. After what she claimed were exhaustive efforts, the Special Agent concluded:

> 32. All of Renger's personal income appears to have been included on his personal income tax

> returns. All of Renger's personal exemptions appear accurate and reasonable in amount.

Appendix E, p. 8, Paragraph 32.

Although Renger's 1991, 1992, and 1993 returns accurately reported his income, expenses, and deductions, as well as the amount of tax owed, the Justice Department obtained a three count indictment against Renger for "willful failure to pay taxes." Appendix C. Petitioner unsuccessfully moved to dismiss his indictment based on the above concessions.

At trial the Special Agent took the stand during the government's case-in-chief and reaffirmed the accuracy and timeliness of the tax returns. Petitioner unsuccessfully moved for a verdict of acquittal.

The jury's verdict found Petitioner guilty on all three counts. The District Court entered a Judgment of Conviction and sentenced Renger to twenty-seven months. Appendix B.

Petitioner's Motion for Bond Pending Appeal was denied. He was immediately incarcerated and remains to this day in the Federal Lockup in El Paso, Texas.

Petitioner never committed any act of fraud or concealment consistent with tax evasion as defined by this Court in *Spies v. United States*, 87 L. Ed. 418, 317 U.S. 492 (1943). Petitioner's conviction and incarceration are illegal and violate our legal system's preclusion against imprisonment for debt.

REASONS FOR GRANTING THE WRIT

As the cameras rolled and various I.R.S. abuses were cataloged on Capitol Hill, IRS officials promised to mend the Agency's ways and make it more "taxpayer friendly." Viewers peering into the portals of Congress where these hearings were being held were assured that a government investigation would be mounted and that the wrong doing would be remedied. Predictably, when the flame of public interest fanned by the media died down, I.R.S. resumed its continuing assault on citizen's rights.

When it confronts criticism, I.R.S. is always quick to point that by concocting and carrying out the abusive programs it imposes on taxpayers, it is merely following the directives of this Court which it has received all to infrequently over the years.

At the very time I.R.S. was promising to police itself, it was prosecuting Petitioner Renger for failure to pay taxes despite the absence of any proof he concealed the source, amount, or nature, of his income, expenses, and deductions.

By obtaining the conviction in this case and incarcerating Petitioner for mere failure to pay taxes, I.R.S. has set itself up as the sole creditor in this country that can imprison, at its whim, for non-payment of debt. All at once, the workers of this country, whether highly salaried or low, are sent a message that they may be incarcerated for years based on their failure to pay any debt which the bureaucrats decide is owed.

By aligning themselves with these goals, the two Courts of Appeals, which have approved this practice, have set the

Internal Revenue Service up as the overseer of Plantation America and have instituted a system of peonage which violates the fundamental principles upon which our society was founded.

Ignoring rather than applying this Court's teachings in *Spies v. United States*, 87 L. Ed. 418, 317 U.S. 492 (1943), the Fifth Circuit Court of Appeals attempts to avoid this Court's bar against imprisonment for debt by criminalizing the purchase of luxuries. *United States v. Tucker*, 686 F.2d 230 (5th Cir. 1982). Many a Bankruptcy Judge would be amazed that the improvident debtors voluntarily or involuntarily before those Courts are potential criminals on the other side of the docket.

This Court must grant Writ of Certiorari to enforce its prior precedent in *Spies* which prohibits imprisonment for debt irrespective of any perceived needs of the public Fisc.

In light of our bankruptcy laws as well as laws of exemption, imprisonment for tax debt should be deemed a cruel and unusual punishment which violates the Eighth Amendment.

I.

I.R.C. § 7203 DID NOT CREATE A DEBTOR'S PRISON FOR DELINQUENT TAXPAYERS. (*SPIES v. UNITED STATES*, 87 L. Ed. 418, 317 U.S. 492 (1943).

This Court in *Spies* compared the willfulness necessary for conviction for failure to file under 7203 with that Section's non-payment of tax provision and observed:

> Willfulness means something more as applied to non-payment of a tax than would apply to failure to make a return. Mere voluntary and purposeful as distinguished from accidental, omission to make a timely return might meet the test of willfulness, **but in view of our traditional aversion to imprisonment for debt, we would not without the clearest manifestation of Congressional intent assume that mere knowing and intentional default in the payment of a tax where there has been no willful failure to disclose the liability is intended to constitute a criminal defense of any degree. We would expect willfulness in such a case to include some element of evil motive and want of justification in view of all of the financial circumstances of a taxpayer.**

Spies, *supra*, at 497-98.

Making it even clearer that willful failure to pay under Section 7203 requires a higher degree of proof than willful failure to file under the same statute, this Court said:

> We think that in employing the terminology of intent to embrace the gravest of offenses against the revenues, **Congress intended some willful commission in addition to the willful omissions to make up the list of misdemeanors.**

Id. at 499.

The *Spies* opinion gives examples of the type of willful conduct which must be proven beyond a reasonable doubt in order to sustain a Section 7203 (failure to pay) conviction.

> By way of illustration, and not by way of limitation, we would think affirmative willful intent may be inferred from such conduct as keeping a double set of books, making false entries or alterations, false invoices or documents, destruction of books or records, concealment of assets, or covering up sources of income, handling one's affairs to avoid making the records usual in the transactions of the kind, and any conduct, the likely effect of which would be to mislead or to conceal.

Spies, *supra*, at 499.

In the Internal Revenue Manual, Section 415.22 the IRS, citing *Spies*, makes a judicial admission:

> The mere failure to pay the tax is not a crime; it must be willful. Some evil motive or bad purpose must be shown.

Despite the above admission, IRS overreached the limits of power previously placed on it by this Court by procuring the conviction in *United States v. Tucker*, 686 F.2d 230 (5th Cir. 1982) a failure to pay case in which mere intentional failure to pay income tax was the basis of the conviction(s). The Fifth Circuit Opinion in *Tucker* did not even cite this Court's language declining to allow imprisonment for debt and requiring proof of an act of willfulness which would sustain a conviction for felony tax evasion in order to sustain a conviction for willful failure to pay under Section 7203.

Both the District Court which imposed the Judgment of Conviction and sentence against Petitioner and the Fifth

Circuit were bound by this Court's language in *Spies*. *Spies* has never been overruled or modified. *Tucker* stands for the untenable proposition that luxury expenditures by a taxpayer are the equivalent of an act of bad faith or evil motive in furtherance of tax evasion as required by *Spies*.

Spies recognizes that the misdemeanor crime of failure to pay a tax must be treated specially, and a higher degree of proof beyond a reasonable doubt imposed, in order to sustain a conviction. Otherwise, hoards of IRS agents will be turned loose on our citizenry armed with the inherently evil power to imprison for debt.

In the case below, the government groused about Petitioner's supposed lavish support of his own family and claims that Petitioner should have lived a more modest lifestyle (or even at poverty level) so the government could be paid.

This argument is no different than that of relentless creditors everywhere who oppose the debt relief available under the Bankruptcy Code.

Interpreting Section 7203 in such a manner as to allow the IRS to imprison for debt not only violates the constitutional provisions precluding such action, but also undermines the provisions of the Constitution guaranteeing that Congress will promulgate a scheme of relief which allows the filing of bankruptcy.

If Petitioner had filed bankruptcy, what would have been the effect of the government's proffered interpretation of Section 7203? Any government power as a super creditor to jail its citizens for non-payment of tax debts flies in the face

of equitable distribution principles guaranteeing creditors equal treatment under the Bankruptcy Code. The Bankruptcy Code grants the government some priority for its collection of taxes, but does not allow the government to jail the debtor to force payment of his tax obligations.[1] If luxury expenditures by a Bankrupt were sufficient proof of willfulness to sustain a conviction under Section 7203 and such payments interfered with the Bankrupt's ability to pay his federal taxes, few debtors would receive discharges.

Clearly, Congress did not intend this result. IRS statutes hold that the government tax lien is entitled to no greater priority than that of any other creditor under the states' first-in-time and first-in-right lien filing statutes. The government's presumption that Congress intended to vest the IRS with the power to jail its tax debtors simply because they spent their money improvidently and did not set sufficient funds aside to satisfy the revenue is untenable. None of the other decisions relied on by the government to accomplish this result are applicable since they did not deal with the heightened proof requirements for convictions under the willful failure to pay statute described by this Court in *Spies*.

The government failed to prove any act which would satisfy the required proof of ". . . some element of evil motive and want of justification in view of all the financial circumstances of taxpayer. . . ." A Writ of Certiorari should be granted and Petitioner's illegal and unconstitutional conviction should be nullified.

---

1. Indeed the IRS Agents opined on the stand that Renger could have avoided prosecution by filing bankruptcy!

II.

IMPRISONMENT FOR MERE FAILURE TO PAY TAXES IS CRUEL AND UNUSUAL PUNISHMENT (EIGHTH AMENDMENT TO THE UNITED STATES CONSTITUTION).

Is imprisonment for mere failure to pay taxes cruel and unusual punishment? Here, Petitioner is being held against his will for failure to pay a debt. Congress abolished peonage and slavery when it enacted 42 U.S.C. § 1994. While several Federal Courts have held that the provisions of the Internal Revenue Code which mandate payment of taxes do not violate § 1994, those decisions do not involve imprisonment for mere failure to pay. *Lonsdale v. Egger*, 525 F. Supp. 610 (N.D. Tex. 1981), *dismissed*, 673 F.2d 1325 (5th Cir. 1982), and *Zachay v. Metzger*, 927 F. Supp. 398 (S.D. Cal. 1997).

Since no other debts support imprisonment in our legal system, Petitioner's incarceration for failure to pay a debt is cruel and unusual punishment for his alleged act (non-payment of a tax debt) which violates the Eighth Amendment.

CONCLUSION

For the foregoing reasons, this Petition should be granted and a Writ of Certiorari should be issued to review the decision below. After such review the Judgment of Conviction and Sentence imposed by the District Court and the Court of Appeals should be reversed and rendered and Petitioner should be discharged.

Respectfully submitted,

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APPENDIX

APPENDIX A — PER CURIAM OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT DATED AND FILED JULY 18, 2000

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-20923
(Summary Calendar)

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

EVERETT RENGER, JR.,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
(H-98-CR-335-1)

Before POLITZ, WIENER, and PARKER, Circuit Judges.

PER CURIAM:*

Defendant-Appellant Everett Renger, Jr., appeals from his jury conviction and sentence for willful failure to pay

---

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

federal income tax in violation of 26 U.S.C. § 7203. Renger argues that the trial court abused its discretion in refusing to instruct the jury that, to find that he willfully failed to pay income taxes, it must find that he acted with evil motive or bad purpose. Renger insists that the trial court erred in refusing to instruct the jury as to his so-called theory of defense, and plainly erred in refusing to depart downward on the erroneous belief that it lacked discretion to depart.

The trial court did not abuse its discretion in refusing to adopt Renger's instruction as to willfulness. *See Cheek v. United States*, 498 U.S. 192, 201 (1991); *United States v. Masat*, 948 F.2d 923, 932 (5th Cir. 1991) ; *United States v. Tucker*, 686 F.2d 230 (5th Cir. 1982). Neither did the trial court err in refusing to instruct the jury as to Renger's theory of defense. *United States v. Robinson*, 700 F.2d 205, 211 (5th Cir. 1983). Because the district court affirmatively established that its refusal to depart was primarily based upon its determination that the facts of the case did not warrant a downward departure, we lack jurisdiction to review the district court's refusal. *United States v. Brace*, 145 F.3d 247, 263 (5th Cir. 1998) (en banc), *cert. denied*, 119 S. Ct. 426 (1998). Accordingly, the judgment of the district court is AFFIRMED.

APPENDIX B — JUDGMENT OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS DATED AND ENTERED SEPTEMBER 21, 1999

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

Holding Session in Houston

Case Number: 4:98CR00335-001

UNITED STATES OF AMERICA

v.

EVERETT RENGER, JR.

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

R. Trent Gaither
Defendant's Attorney

THE DEFENDANT:

* * *

☑ was found guilty on count(s) 1, 2, and 3, on January 14, 1999 after a plea of not guilty.

Appendix B

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
26 U.S.C. § 7203	Willful failure to pay tax	12/31/1993	1, 2, 3

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

* * *

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 458-55-0358

September 13, 1999
Date of Imposition of Judgment

Defendant's Date of Birth: 09/11/1942

Defendant's USM No.: 83060-079

s/ Kenneth M. Hoyt
Signature of Judicial Officer

Appendix B

Defendant's Residence Address: 5 Heritage Court Houston TX 77024	KENNETH M. HOYT UNITED STATES DISTRICT JUDGE Name & Title of Judicial Officer
Defendant's Mailing Address: 5 Heritage Court Houston TX 77024	9/21/99 Date

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 27 month(s).

The term consists of TWELVE (12) MONTHS as to Counts 1 and 2, and THREE (3) MONTHS as to Count 3, to run consecutively to one another.

* * *

☑ The defendant shall surrender to the United States Marshal for this district:

* * *

☑ as notified by the United States Marshal.

* * *

Appendix B

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 1 year(s).

The term consists of ONE (1) YEAR as to Count 1, ONE (1) YEAR as to Count 2, and ONE (1) YEAR as to Count 3, to run concurrently to one another.

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

* * *

☑ The defendant shall not possess a firearm as defined in 18 U.S.C. § 921. (Check, if applicable.)

Appendix B

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page.

☑ See Special Conditions of Supervision — Sheet 3.01

STANDARD CONDITIONS OF SUPERVISION

1) the defendant shall not leave the judicial district without the permission of the Court or probation officer;

2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;

3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;

4) the defendant shall support his or her dependents and meet other family responsibilities;

Appendix B

5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;

6) the defendant shall notify the probation officer ten days prior to any change in residence or employment;

7) the defendant shall refrain from excessive use of alcohol;

8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;

9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;

10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;

11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;

12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;

13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement;

14) if restitution has been ordered, the defendant shall make restitution as ordered by the Court and in accordance with the applicable provisions of Title 18 U.S.C. § 2248, 2259, 2264, 2327, 3663, 3663A, and/or 3664. The defendant shall also pay the assessment imposed in accordance with Title 18 U.S.C. § 3013;

15) the defendant shall notify the U.S. Probation Officer of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines, or special assessments.

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall cooperate with the Internal Revenue Service in payment of back taxes.

Appendix B

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 5, Part B.

	Assessment
Totals:	$75.00

* * *

SCHEDULE OF PAYMENTS

Payments shall be applied in the following order: (1) assessment; (2) restitution; (3) fine principal; (4) cost of prosecution; (5) interest; (6) penalties.

Payment of the total fine and other criminal monetary penalties shall be due as follows:

A ☑ in full immediately;

* * *

The defendant will receive credit for all payments previously made toward any criminal monetary penalties imposed.

Appendix B

Special instructions regarding the payment of criminal monetary penalties:

Make all payments payable to: U.S. District Clerk, Attn: Finance, P.O. Box 81010, Houston, TX 77208.

* * *

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program are to be made as directed by the court, the probation officer, or the United States attorney.

STATEMENT OF REASONS

* * *

☑ The Court adopts the factual findings and guideline application in the presentence report except:

Pursuant to Court directive as issued at the sentencing hearing of September 13, 1999, it is noted that paragraph 56 correctly states that the probation officer found no statement in the file wherein the defendant addressed his participation in the instant offense for purposes of acceptance of responsibility. However, such a statement had indeed been provided to probation as well as the Court.

Appendix B

Guideline Range Determined by the Court:

Total Offense Level: 18

Criminal History Category: I

Imprisonment Range: 27 to 33 months.

Supervised Release Range: 0 to 1 years.

Fine Range: $6,000.00 to $60,000.00

☑ Fine waived or below the guideline range because of inability to pay.

* * *

☑ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by the application of the guidelines.

* * * *

APPENDIX C — INDICTMENT OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION DATED AND FILED AUGUST 21, 1998

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CRIMINAL NUMBER
H-98-335

UNITED STATES OF AMERICA

v.

EVERETT RENGER, Jr.

INDICTMENT

THE GRAND JURY CHARGES:

COUNT ONE
(Willful Failure to Pay Tax)

That during the calendar year 1991, defendant

EVERETT RENGER, JR.

who was a resident of Houston, Texas, had and received taxable income of approximately $306,096, on which taxable income there was owing to the United States of America an income tax of $83,097; that he was required by law on or before April 15, 1992, to pay said income tax to the Director,

Internal Revenue Service Center, at Austin, Texas, or to the District Director, Internal Revenue Service, at Houston, Texas, or other proper officer of the United States; and that well-knowing and believing all of the foregoing, he did willfully fail to pay the said income tax to said Director of the Internal Revenue Service Center, to said District Director of the Internal Revenue Service, or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

COUNT TWO
(Willful Failure to Pay Tax)

That during the calendar year 1992, defendant

EVERETT RENGER, JR.

who was a resident of Houston, Texas, had and received taxable income of approximately $397,412, on which taxable income there was owing to the United States of America an income tax of $126,607; that he was required by law on or before April 15, 1993, to pay said income tax to the Director, Internal Revenue Service Center, at Austin, Texas, or to the District Director, Internal Revenue Service, at Houston, Texas, or other proper officer of the United States; and that well-knowing and believing all of the foregoing, he did willfully fail to pay the said income tax to said Director of the Internal Revenue Service Center, to said District Director of the Internal Revenue Service, or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

Appendix C

COUNT THREE
(Willful Failure to Pay Tax)

That during the calendar year 1993, defendant

EVERETT RENGER, Jr.

who was a resident of Houston, Texas, had and received taxable income of approximately $330,026, on which taxable income there was owing to the United States of America an income tax of $118,276; that he was required by law on or before April 15, 1994, to pay said income tax to the Director, Internal Revenue Service Center, at Austin, Texas, or to the District Director, Internal Revenue Service, at Houston, Texas, or other proper officer of the United States; and that well-knowing and believing all of the foregoing, he did willfully fail to pay the said income tax to said Director of the Internal Revenue Service Center, to said District Director of the Internal Revenue Service, or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

A TRUE BILL:

s/ J.A. Blackstone
FOREPERSON OF THE GRAND JURY

Appendix C

JAMES H. DEATLEY
United States Attorney

By: s/ John Richard Berry
John Richard Berry
Assistant United States Attorney

APPENDIX D — CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

EIGHTH AMENDMENT

Excessive bail shall not be required, nor excessive fines imposed, **nor cruel or unusual punishments inflicted.**

* * *

42 U.S.C. § 1994

Section 1994. Peonage Abolished.

The holding of any person to service or labor under the system known as peonage is abolished and forever prohibited in any Territory or State of the United States; and all acts, laws, resolutions, orders, regulations, or usages, of any Territory or States which are heretofore established, maintained, or enforced, by virtue of which any attempt shall hereafter be made to establish, maintain, or enforce, directly or indirectly, the voluntary or involuntary service or labor of any persons as peons, in liquidation of any debt or obligation, or otherwise, are declared null and void.

* * * *

APPENDIX E — EXCERPTS FROM GOVERNMENT'S TRIAL MEMORANDUM FILED JANUARY 11, 1999

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CRIMINAL NUMBER H-98-335

UNITED STATES OF AMERICA

v.

EVERETT RENGER, Jr.

GOVERNMENT'S TRIAL MEMORANDUM

* * *

[8] * * *

32. All of Renger's personal income appears to have been included on his personal income tax returns. All of Renger's personal exemptions appear accurate and reasonable in amount.

* * * *